may, as an exercise of his military power, use civil officers, who as citizens are potential militiamen, and whose acts are justified not by their civil authority, but by the military authority of the governor.

CONTRACTS — CONTRACTS UNDER SEAL — SUIT BY ORALLY DISCLOSED PRINCIPAL WHEN AGENT SIGNS AND SEALS AS PARTY. — The plaintiff's agent, in his own name, signed and sealed a contract for a lease. Alleging these facts and also that the defendant knew the contract was made in his behalf, the plaintiff seeks specific performance. *Held*, that the defendant's demurrer be overruled. *Lagumis* v. *Gerard*, 190 N. Y. Supp. 207 (Sup. Ct.).

Where a contract is not under seal, an undisclosed principal on whose behalf it was made can sue on it. *Edwards* v. *Gildemeister*, 61 Kan. 141, 59 Pac. 259; *Foster* v. *Graham*, 166 Mass. 202, 44 N. E. 129. But where the instrument is sealed, the older authorities refused to allow suit by anyone not appearing on its face as a party. *Borcherling* v. *Katz*, 37 N. J. Eq. 150; *Walsh* v. *Murphy*, 167 Ill. 228, 47 N. E. 354. The modern law tends to get away from the technicalities which formerly surrounded the use of the seal. *Donner* v. *Whitecotton*, 201 Mo. App. 443, 212 S. W. 378. *Cf. Gill* v. *Atlanta Ry. Co.*, 24 Ga. App. 780, 102 S. E. 457. And see *Sanger* v. *Warren*, 91 Tex. 472, 44 S. W. 477. In accordance with the same spirit, it is now generally held that a sealed instrument may be varied by an executory parol agreement. *Harris* v. *Shorall*, 230 N. Y. 343, 130 N. E. 572. Possibly the result of this case could be reached without disregarding the seal. It is not a case of undisclosed principal, strictly speaking, because the plaintiff was orally disclosed. Since both parties knew that the contract was made in his behalf, the instrument does not express the real intent of the parties, and there is apparently a case for reformation. See 1 WILLISTON, CONTRACTS, §§ 296, 302. And it is to be noted that the suit here is already in equity. The court, however, does not adopt this reasoning, but bases its decision on a frank disregard of profitless technicalities.

CORPORATIONS — DIRECTORS AND OTHER OFFICERS — BANKRUPTCY — RIGHT OF PRESIDENT TO FILE ANSWER TO PETITION IN BANKRUPTCY. — Two creditors of a corporation, who were also directors thereof, filed an involuntary petition in bankruptcy against the corporation. The Bankruptcy Act provides: "The bankrupt or any creditor may appear and plead to the petition." (§ 18b; 1918 U. S. COMP. STAT., § 9602.) It appears that the four directors of the corporation, who own the stock in equal shares, are deadlocked as to whether the corporation should file an answer to the petition. Consequently no answer was filed for the corporation. The president, who is also one of the directors and stockholders of the corporation, filed an answer, as president, alleging that the petition was filed as the result of a conspiracy to ruin the corporation. The petitioning creditors move to strike out the answer. *Held*, that the motion be denied. *Regal Cleaners & Dyers, Inc.* v. *Merlis*, 274 Fed. 915 (2d Circ.).

Ordinarily, in an action against a corporation only the corporation can defend. *General Electric Co.* v. *West Asheville Imp. Co.*, 73 Fed. 386 (Circ. Ct., W. D. N. C.). See 6 FLETCHER, CYCLOPEDIA OF CORPORATIONS, § 4055. In a suit in equity, however, if the directors fraudulently refuse to defend, stockholders may intervene. *Bronson* v. *LaCrosse R. Co.*, 2 Wall. (U. S.) 283. See 6 FLETCHER, *op. cit.*, § 4055. Bankruptcy proceedings are administered in accordance with principles of equity. *Zeitinger* v. *Hargadine-McKittrick Co.*, 244 Fed. 719 (8th Circ.). So in the principal case, the deadlock and failure to defend being caused by the fraudulent conduct of two of the directors, a stockholder might intervene. *Ogden* v. *Gilt Edge Consolidated Mines Co.*, 225 Fed. 723 (8th Circ.); *Zeitinger* v. *Hargadine-McKittrick Co.*, *supra*. See 1 REMING-

TON, BANKRUPTCY, 2 ed., § 326. And see 35 HARV. L. REV. 195. Since the president was a stockholder, the decision is orthodox. But in New York the president, although he must be a director, is not necessarily a stockholder. See 1909 N. Y. CONSOL. LAWS, c. 61, §§ 25, 30. And the theory of the court, it seems, is that the president may defend *qua* president. A stockholder is allowed to intervene in this situation to protect his interests. *Bronson* v. *LaCrosse R. Co., supra.* See 35 HARV. L. REV. 195. But the president as such has no similar interests. Neither can he ordinarily act for the corporation except in so far as authorized by the directors and by-laws. *Wait* v. *Nashua Armory Ass'n*, 66 N. H. 581, 23 Atl. 77. The court seems to be advancing a new doctrine, — one which leaves open interesting questions. May the president file an answer for the corporation where there is simply a fraudulent failure to defend; or must there be a fraudulently caused deadlock; or would a deadlock among the directors without any fraud be sufficient?

EQUITY — JURISDICTION TO AID AVOIDANCE OF CONTRACT FOR INFANCY. — The plaintiff, an infant twenty years of age, made a contract to act for the defendant film corporation. On her representation that she was free to contract, a second firm engaged her at a higher salary. By threatening to sue if the plaintiff's services were accepted, the defendant induced the second firm to repudiate its contract. The plaintiff seeks an injunction against such interference with her efforts to secure other employment. *Held*, that the injunction be denied. *Carmen* v. *Fox Film Corporation*, 269 Fed. 928 (2d Circ.).

An infant may avoid contracts of employment. *Gaffney* v. *Hayden*, 110 Mass. 137; *Lufkin* v. *Mayall*, 25 N. H. 82. See 1 WILLISTON, CONTRACTS, § 228. Any act indicating such intention is sufficient. See 1 WILLISTON, CONTRACTS, § 234. It is clear, then, that the first contract was avoided. In similar cases, equity has often aided infants in securing the full benefit of avoidance. *Bell* v. *Burkhalter*, 176 Ala. 62, 57 So. 460; *Barr* v. *Packard Co.*, 172 Mich. 299, 137 N. W. 697. See *Reynolds* v. *McCurry*, 100 Ill. 356, 362. The jurisdiction of equity in such cases is a jurisdiction to remove clouds on title, which by the modern view extends to personalty as well as realty. *O'Donnell* v. *Brown*, 35 R. I. 522, 87 Atl. 311; *Perry* v. *Young*, 133 Tenn. 522, 182 S. W. 577; *Voss* v. *Murray*, 50 Ohio St. 19. By analogy, equity should have jurisdiction to remove a substantial cloud upon the power to dispose of personal services. So long as the defendant can frighten away prospective employers by asserting the validity of the avoided contract, there is clearly a serious cloud upon the plaintiff's power of contracting, with no adequate relief at law. The court seems to recognize its jurisdiction, but refuses to exercise it. Looking beyond the strict rules of law freeing the plaintiff from legal obligation upon avoidance, it sees the moral obligation of a deliberate promise, and refuses equitable relief which would assist her in violating it. Rules of law, being of general application, can at best achieve justice in a majority of cases. But the discretionary remedies of equity are properly to be exercised according to the justice of the particular instance.

EXECUTORS — PROCEEDINGS BY OR AGAINST — SET-OFF AGAINST LEGATEE. — In a proceeding for the distribution of the testator's estate, the administratrix sought to set off against a legacy a debt alleged to be due from the legatee to the estate. The legatee objected on the ground that the statute of limitations barred the claim. The probate court sustained the objection. *Held*, that there was no error. *In re Schaeffer's Estate*, 200 Pac. 508 (Cal.).

An executor may set off an actionable debt against a legatee or distributee. *Re Savage*, [1918] 2 Ch. 146. And in England, the fact that the statute of limi-